

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

JOHN KENNEDY,

Case No. 17-cv-60

Plaintiff,

vs.

DIVERSIFIED CONSULTANTS, INC.,

Defendant.

COMPLAINT

NOW COMES, Plaintiff John Kennedy, by and through his attorneys, DeLadurantey Law Office, LLC, and complains of Defendant Diversified Consultants, Inc. and alleges to the best of his knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

INTRODUCTION

Nature of the Action

1. This lawsuit arises from illegal credit reporting and collection attempts of the Defendant.

2. Causes of Action herein are brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 and the Wisconsin Consumer Act ("WCA"), Wis. Stat. § 421 *et seq.*

Jurisdiction and Venue

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, because the case arises under the laws of the United States. This Court also has jurisdiction pursuant to 15 U.S.C. § 1692k(d), as it is an action to enforce liability created by the FDCPA within one year from the date on which the violation occurred.

4. This Court has supplemental jurisdiction over the claims arising under the WCA under 28 U.S.C. § 1367, because the WCA claims are related to the FDCPA claims as they arise under the same set of facts. Thus they are part of the same case or controversy under Article III of the United States Constitution.

5. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(1), because this is where the Defendants reside. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction.

Parties

6. Plaintiff John Kennedy (hereinafter “Mr. Kennedy”) is a natural person who resides in the County of Waukesha, State of Wisconsin.

7. Defendant Diversified Consultants, Inc. (hereinafter “Defendant Diversified”) is a foreign business with a principal office of 10550 Deerwood Park Blvd., Suite 309, Jacksonville, FL 32256, and a registered agent of Incorp Services Inc., 901 S. Whitney Way, Madison, WI 53711.

8. Defendant Diversified is a “debt collector” pursuant to 15 U.S.C. § 1692a(6).

9. Defendant Diversified is a “debt collector” pursuant to Wis. Stat. §427.103(3).

Factual Allegations

10. In 2016, Mr. Kennedy obtained a credit report and found that Defendant Diversified had a collection account on his report.

11. In December 2016, Mr. Kennedy contacted Defendant Diversified via telephone regarding the balance.

12. Diversified informed Mr. Kennedy that if he paid the debt, they would delete the account from his credit report.

13. Mr. Kennedy paid the balance in full.

14. Mr. Kennedy received letters dated December 2, 2016, indicating that his balance had been paid in full and that Diversified had contacted the credit bureaus to request deletion of Mr. Kennedy's account.

15. Mr. Kennedy obtained a copy of his credit report, dated January 5, 2017.

16. This credit report contained a tradeline from Diversified Consultants, Inc.

17. The credit report showed that the status was "paid, closed."

Count 1 – Violations of the Fair Debt Collection Practices Act, (15 U.S.C. §1692)

18. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

19. Mr. Kennedy is a consumer as defined by 15 U.S.C. §1692a(3).

20. The foregoing acts of the Defendant and its agents constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. §§ 1692d, 1692e, 1692e(10), 1692f, and 1692f(1), with respect to Plaintiff.

21. Specifically, under 15 U.S.C. § 1692e(10), a debt collector cannot use false representation or deceptive means to collect, which they did when they lied about deleting the account on Mr. Kennedy's credit report.

22. Plaintiff has suffered actual damages as a result of the illegal credit reporting in the form of anger, anxiety, emotional distress, humiliation, frustration, amongst other negative emotions.

23. Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

Count 2 – Violations of the Wisconsin Consumer Act, (Wis. Stat. § 427.104(c))

24. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

25. Under Wis. Stat. § 427.104(h), a debt collector cannot "[e]ngage in... conduct which can reasonably be expected to... harass the customer."

26. Promising Mr. Kennedy deletion of an account in exchange for payment, and then not deleting the account can reasonably be expected to cause harassment to him.

27. Plaintiff has suffered actual damages as a result of this illegal credit reporting in the form of anger, anxiety, emotional distress, humiliation, frustration, amongst other negative emotions.

28. Plaintiff is entitled to actual, statutory, and punitive damages pursuant to Wis. Stat. § 427 and, reasonable attorney's fees and costs pursuant to Wis. Stat. § 435.308.

Trial by Jury

29. Mr. Kennedy is entitled to, and hereby respectfully demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Mr. Kennedy pray that judgment be entered against Defendant Diversified for:

- A. Actual damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3);
- D. Actual, statutory, and punitive damages pursuant to Wis. Stat. §427 *et al.*;
- E. Costs and reasonable attorneys' fees pursuant to Wis. Stat. §425.308; and
- F. Other and further relief as may be just and proper.

Dated this 16th day of January, 2017.

DeLadurantey Law Office, LLC

s/ Heidi N. Miller

Nathan E. DeLadurantey

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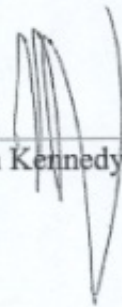
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VERIFICATION OF COMPLAINT AND CERTIFICATION

Pursuant to 28 U.S.C. § 1746, I, John Kennedy, declare under penalty of perjury the following:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.



John Kennedy